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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CDDTL LICENSE NOS.: 100-0991
)	100-0992
THE COMMISSIONER OF BUSINESS)	100-0993
OVERSIGHT,)	
)	CITATIONS AND DESIST AND REFRAIN
Complainant,)	ORDER PURSUANT TO FINANCIAL CODE
)	SECTION 23058
)	
v.)	
)	
ROSEMOLE VINCENT MATHEW doing)	
business as SAN FRANCISCO CHECK)	
CASHING, ARMY CHECK CASHING, and)	
BAY VIEW CHECK CASHING,)	
)	
Respondent.)	

Complainant, the Commissioner of the Department of Business Oversight (“Commissioner” or “Department”) is informed and believes, and based on such information and belief, finds as follows:

I.

BACKGROUND

1. The Commissioner has jurisdiction over deferred deposit transactions as set forth in the California Deferred Deposit Transaction Law (“CDDTL”) (Fin. Code, § 23000 et. seq.). The Commissioner is authorized to pursue administrative actions and remedies against persons who

engage in violations of the CDDTL.

2. “Deferred deposit transaction,” as defined by section 23001, subdivision (a), means a transaction whereby a person defers depositing a “customer’s personal check” until a specific date, pursuant to a written agreement for a fee or other charge. A “personal check” includes the electronic equivalent of a personal check, such as an Automated Clearing House (“ACH”) or debit card transaction.

3. On December 31, 2004, the Commissioner issued to Respondent, Rosemole Vincent Mathew doing business as San Francisco Check Cashing, a deferred deposit transaction originator license (license number 100-0991) pursuant to the CDDTL. Respondent also does business as Army Check Cashing (license number 100-0992) and Bay View Check Cashing (license number 100-0993) at two licensed branch locations in San Francisco, California. Respondent’s principal office is located at 847 Divisadero Street, San Francisco, California, 94117.

4. As part of Respondent’s application to the Commissioner for a license to make deferred deposit transactions, Respondent executed a Declaration, designated as “Exhibit K,” signed under penalty of perjury, which states:

I (we) have obtained and read copies of the California Deferred Deposit Transaction Law (Division 10 of the California Financial Code) and the Rules (Chapter 3, Title 10, California Code of Regulations) and am familiar with their content; and,

I (we) agree to comply with all the provision[s] of the California Deferred Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations.

5. By signing the Declaration, Respondent further attested to declare understanding of the following items on the application:

1. That the applicant will submit to periodic examinations by the Commissioner of Corporations as required by the California Deferred Deposit Transaction Law.
2. That the applicant will keep and maintain all records for 2 years following the last entry on a deferred deposit transaction and will enable an examiner to review the record keeping and reconcile each consumer deferred deposit transaction with documentation maintained

1 in the consumer's file records.

2 **II.**

3 **VIOLATIONS OF THE CDDTL**

4 6. On or about May 20, 2013, the Commissioner commenced a regulatory examination of all of
5 Respondent's licensed California locations. During the examination, the Commissioner's examiner
6 discovered that Respondent used an internet advertisement at www.paydayadvance.info that did not
7 state that Respondent was licensed by the Department pursuant to the CDDTL, as required by
8 Financial Code section 23027, subdivision (b).

9 7. Subdivision (b) of section 23027 states:

10 No licensee shall place an advertisement disseminated primarily in this state for a
11 deferred deposit transaction unless the licensee discloses in the printed text of the
12 advertisement, or the oral text in the case of a radio or television advertisement,
13 that the licensee is licensed by the department pursuant to this division.

14 8. The Commissioner's examination also disclosed that Respondent did not maintain at the
15 licensed business location evidence of the customer's check for each deferred deposit transaction as
16 required by California Code of Regulations, title 10, section 2025, subdivision (c)(1). When the
17 Commissioner's examiner inquired about the missing documentation, Respondent replied that the
18 business scanner was broken.

19 9. Subdivision (c)(1) of section 2025 provides in pertinent part:

20 . . . [R]ecords to be maintained at each licensed business location for each
21 deferred deposit transaction shall include at least the following: the deferred
22 deposit transaction agreement, **evidence of the check**, written disclosure(s) used
23 to provide notice in compliance with subdivision (c) of Section 23035 of the
24 Financial Code, record of any and all extensions of time or payment plans for
25 repayment of an existing deferred deposit transaction, record of time periods for
26 each transaction, record of transaction fees and charges, and record of transaction
27 payments. (Emphasis added.)

28 10. Financial Code section 23024 further requires that all CDDTL records be maintained by the
licensee for a period of two years and states:

Each licensee shall keep and use books, accounts, and records that will enable the
commissioner to determine if the licensee is complying with the provisions of this
division and with the rules and regulations promulgated by the commissioner.

Each licensee shall maintain any other records as required by the commissioner. The commissioner or a designee of the commissioner may examine those records at any reasonable time. Upon the request of the commissioner, a licensee shall file an authorization for disclosure of financial records of the licensed businesses pursuant to Section 7473 of the Government Code. All records shall be kept for **two years** following the last entry on a deferred deposit transaction and shall enable an examiner to review the recordkeeping and reconcile each consumer deferred deposit transaction with documentation maintained in the consumer's deferred deposit transaction file records. (Emphasis added.)

11. The Commissioner's examination also disclosed that a customer check for a May 2, 2013 deferred deposit transaction appeared to contain a date that had been altered by Respondent in violation of Financial Code section 23037, subdivision (e).

12. Subdivision (e) of section 23037 provides:

In no case shall a licensee do any of the following:
 . . . (e) Alter the date or any other information on a check.

13. On October 22, 2014, the Commissioner sent Respondent a regulatory examination letter reporting the findings of the May 20, 2013 examination. The regulatory examination later informed the licensee that a written response to the violations cited in the letter was required within 30 calendar days. Respondent failed to timely respond to the regulatory examination letter.

14. On January 21, 2015, the Commissioner sent a follow-up letter to Respondent by certified mail, which included a copy of the regulatory examination letter dated October 22, 2014. This letter demanded that Respondent provide a response to the regulatory examination letter and/or evidence of compliance within 10 days from the date of the letter. The letter further advised that failure to comply would result in referral for administrative action. To date, Respondent has failed to provide the Commissioner any response to the October 22, 2014 regulatory examination letter or the January 21, 2015 demand letter.

15. Financial Code section 23052, subdivision (b), provides that failure to comply with any demand, ruling, or requirement of the Commissioner constitutes grounds for revocation of a CDDTL license.

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III.**CITATIONS**

16. Financial Code section 23058 authorizes the Commissioner to issue a citation not exceeding \$2,500.00 for each violation of any provision of the CDDTL or any rule or order thereunder. Section 23058, subdivisions (a) through (d), provides:

(a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500). All penalties collected under this section shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 30 days from the receipt of the citation of the person cited fails to notify the department that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all states the commissioner has all the powers granted therein.

17. For the CDDTL violations of Respondent cited herein, the Commissioner hereby issues three separate Citations (A through C), as part of this single document:

CITATION A – During the period commencing on or after the May 20, 2013 regulatory examination, Respondent placed an advertisement disseminated primarily in this state for a deferred deposit transaction that did not disclose in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the licensee is licensed by the department pursuant to the CDDTL, in violation of section 23027, subdivision (b).

CITATION B – During the period commencing on or after the May 20, 2013 regulatory examination, Respondent failed to maintain in its customer files “evidence of the check” for every

deferred deposit transaction, in violation of section 2025, subdivision (c)(1), and section 23024.

CITATION C – During the period commencing on or about May 2, 2013, Respondent altered the date or any other information on a check, in violation of section 23037, subdivision (e).

18. Respondent Rosemole Vincent Mathew doing business as San Francisco Check Cashing, Army Check Cashing, and Bay View Check Cashing is hereby ordered to pay the Commissioner an administrative penalty of \$2,500 for each of the three citations (Citations A through C) for the total amount of \$7,500.00 within 30 days from the date these citations are deemed final pursuant to section 23058, subdivision (c). The penalty payment shall be made in the form of a cashier's check payable to the "Department of Business Oversight" and mailed to the attention of Senior Counsel Miranda LeKander at 1515 K Street, Suite 200, Sacramento, California, 95814.

IV. DESIST AND REFRAIN ORDER

19. Financial Code section 23058, subdivision (a), authorizes the Commissioner to order any person to desist and refrain from violating any provision of the CDDTL or any rule or order thereunder.

20. The foregoing facts establish violations of the CDDTL by Respondent, including:

(1) Placing an advertisement disseminated primarily in this state for a deferred deposit transaction that did not disclose in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the licensee is licensed by the department pursuant to the CDDTL, in violation of section 23027, subdivision (b);

(2) Failing to maintain in its customer files "evidence of the check" for every deferred deposit transaction, in violation of section 2025, subdivision (c)(1), and section 23024; and,

(3) Altering the date or any other information on a check, in violation of section 23037, subdivision (e).

21. Pursuant to Financial Code section 23058, Respondent Rosemole Vincent Mathew doing business as San Francisco Check Cashing, Army Check Cashing, and Bay View Check Cashing, is hereby ordered to desist and refrain from violating section 2025, subdivision (c)(1), of Title 10 of the

1 California Code of Regulations and Financial Code sections 23027, subdivision (b), and 23037,
2 subdivision (e).

3 This Order is necessary for the protection of consumers and consistent with the purposes,
4 policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further
5 order of the Commissioner.
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7 Dated: April 27, 2015
8 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

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11 By: _____
12 MARY ANN SMITH
13 Deputy Commissioner
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